

(3) The presiding officer shall promptly issue any hearing subpoena applied for under this section; except that, if the presiding officer determines that the application does not set forth a valid basis for the issuance of the subpoena, or that any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpoena or may issue the subpoena in a modified form upon any conditions consistent with this subpart. Upon issuance by the presiding officer, the party making the application shall serve the subpoena on the person named in the subpoena and on each party.

(b) *Motion to quash or modify.* (1) Any person to whom a hearing subpoena is directed or any party may file a motion to quash or modify such subpoena, accompanied by a statement of the basis for quashing or modifying the subpoena. The movant must serve the motion on each party and on the person named in the subpoena. Any party may respond to the motion within ten days of service of the motion.

(2) Any motion to quash or modify a hearing subpoena must be filed prior to the time specified in the subpoena for compliance, but no more than 10 days after the date of service of the subpoena upon the movant.

(c) *Enforcing subpoenas.* If a subpoenaed person fails to comply with any subpoena issued pursuant to this section or any order of the presiding officer that directs compliance with all or any portion of a hearing subpoena, the subpoenaing party or any other aggrieved party may seek enforcement of the subpoena pursuant to §1780.28(c). A party's right to seek court enforcement of a hearing subpoena shall in no way limit the sanctions that may be imposed by the presiding officer on a party who induces a failure to comply with subpoenas issued under this section.

Subpart C—Hearing and Posthearing Proceedings

SOURCE: 64 FR 72518, Dec. 28, 1999, unless otherwise noted.

§ 1780.50 Conduct of hearings.

(a) *General rules.* (1) Hearings shall be conducted in accordance with 5 U.S.C. chapter 5 and other applicable law and so as to provide a fair and expeditious presentation of the relevant disputed issues. Except as limited by this subpart, each party has the right to present its case or defense by oral and documentary evidence and to conduct such cross examination as may be required for full disclosure of the facts.

(2) *Order of hearing.* OFHEO's counsel of record shall present its case-in-chief first, unless otherwise ordered by the presiding officer or unless otherwise expressly specified by law or regulation. OFHEO's counsel of record shall be the first party to present an opening statement and a closing statement and may make a rebuttal statement after the respondent's closing statement. If there are multiple respondents, respondents may agree among themselves as to their order or presentation of their cases, but if they do not agree, the presiding officer shall fix the order.

(3) *Examination of witnesses.* Only one representative for each party may conduct an examination of a witness, except that in the case of extensive direct examination, the presiding officer may permit more than one representative for the party presenting the witness to conduct the examination. A party may have one representative conduct the direct examination and another representative conduct re-direct examination of a witness, or may have one representative conduct the cross examination of a witness and another representative conduct the re-cross examination of a witness.

(4) *Stipulations.* Unless the presiding officer directs otherwise, all documents that the parties have stipulated as admissible shall be admitted into evidence upon commencement of the hearing.

(b) *Transcript.* The hearing shall be recorded and transcribed. The transcript shall be made available to any party upon payment of the cost thereof. The presiding officer shall have authority to order the record corrected, either upon motion to correct, upon stipulation of the parties, or following notice to the parties upon the presiding officer's own motion.